IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Vipul Ved Prakash et al.	Examiner: Jeffrey Swearingen
Serial No.:	10/799,860	Group Art Unit: 2145
Filed:	March 12, 2004	Docket: 2710.007US1
Title:	Method and an apparatus to screen electronic communications	

APPELLANT'S REPLY BRIEF UNDER 37 C.F.R. 41.41

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

In response to the Examiner's Answer mailed October 31, 2008, please see the remarks below:

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REMARKS

Appellants have reviewed the Examiner's answer mailed October 31, 2008 and believe the statements in the Appeal Brief remain accurate and compelling. In responding to the Examiner's Answer, the Appellants would like to further explore a selected few points raised by the Examiner's Answer.

Examiner's Interpretation of "Length" not reasonable in light of specification

As set forth in the appeal brief, the US PTO is to give claims "their broadest reasonable interpretation in light of the specification." during patent examination (MPEP 2111.01). More specifically, "this means that the words of the claim must be given their plain meaning <u>unless the plain meaning is inconsistent with the specification</u>." (MPEP 2111.01, Emphasis added) The Applicants respectfully insist that the Examiner's interpretation of the world "length" is not reasonable since <u>the examiner's interpretation is inconsistent with every usage of the word "length" within the written specification of the patent application.</u>

The world "length" appears within three paragraphs of the written specification. Each paragraph will be examined and shown to have referred to the numerical meaning of the word "length".

The first usage of the word "length" appears in paragraph [0020] of the written specification which states:

> [0020] Referring back to Figure 1, processing logic generates one or more derivatives of the hostname extracted (processing block 120). These derivatives may be referred to as signatures. For example, processing logic may generate one signature based on each URL extracted from the electronic communication. Furthermore, processing logic may generate a unique signature for each unique URL. Alternatively, processing logic may generate one signature based on multiple URLs extracted from the electronic communication. <u>Furthermore, processing logic may generate one or more signatures based on the URLs extracted and the length of the electronic communication.</u> (Emphasis added.)

The only usage of the word "length" in this paragraph is within the final sentence. That usage refers to "<u>**the**</u> length of the electronic communication". Due to the usage of the article "the", this

indicates that the numerical meaning of the word "length" was intended. If a section of the

electronic communication text was intended, the sentence would have used the phrasing of "**a**

length of the electronic communication". Furthermore, the paragraph proposes generating digital

signatures "based on the URLs extracted **and** the length of the electronic communication". Since

the "URLs extracted" are text from the electronic communication, the examiner's interpretation

of the word length would mean that phrase refers to generating digital signatures based on a

length of the electronic communication and a length of the electronic communication. This

redundancy makes is clear the author did not intend the meaning of the word "length" that the

examiner is using.

      The second usage of the word "length" appears in paragraph [0021] of the written

specification which states:

> [0021]   To generate signatures, processing logic may perform various
> computations or hashing on the URLs extracted. For example, in one embodiment,
> processing logic computes a SHA1 hash over the hostname extracted and uses the
> first 48 bits of the hash result as the first part of a signature. Processing logic may
> derive the next 16 bits of the signature from the length of the electronic
> communication. For example, the length, may be computed using the following
> formulae:
>
> *length = orig_length - (orig_length%100)*, where % is the remainder of integer
> division;
>
> *length =:length < 100?100 : length*; if *length* is less than 100, then *length* should be
> set to 100, otherwise, the original value of *length* should be retained.
>
> In the above example, the resultant *length* would be a multiple of 100.
>
> (Emphasis added.)

In this paragraph, most usages of the word "length" are in within a numerical formula and/or in

italics ("*length*") such that it is explicitly clear that the numerical meaning of the word "length"

was intended. In the non formulaic usage for the word "length", every usage of the word is

preceded by the article "the" thus indicating that the numerical usage was intended. Furthermore,

the paragraph describes a first portion of the digital signature being computed from a SHA1 hash

of the hostname extracted (a length of the electronic communication). Once again, it is clear that

a text section of the electronic communication was already being used as part of the digital

signature.

The third usage of the word "length" appears in paragraph [0021] of the written specification which states:

> [0022]   In one embodiment, the first 16 bits of SHA1(*length*) are concatenated to the 48 bits generated by the SHA1 of host to form a 64-bit signature of the electronic communication. The 64-bit signature may be referred to as a "Whiplash" in some embodiments. (Emphasis added.)

In this paragraph, the only usage of the word "length" is in italics ("*length*") thus clearly referring to the explicit numerical usage of the word "length" from paragraph [0021]. Thus, it is clear that every usage of the word "length" in the written specification is for the numerical meaning of the word "length". Since every usage of the word "length" in the written specification is for the numerical meaning, the examiner's interpretation of the word "length" is not "reasonable interpretation in light of the specification" (MPEP 2111.01) since the Examiner's interpretation of the word "length" is "inconsistent with the specification." (MPEP 2111.01).

The Applicants greatly appreciate the Examiner's recommendation to incorporate the numerical formula for computing a length from paragraph [0021] to resolve the matter. However, the Applicants believe that incorporating such a formula would unnecessarily limit the scope of the Applicants invention. However, the Examiner used the phrase "size of the body of the electronic communication" within his answer brief. Applicants are willing to use the phrase "size of the electronic communication" within the claim to resolve the current issue if the Examiner finds this agreeable. The word "size" had not been proposed by the applicants since the word does not appear within the original written specification. However, if the examiner stipulates that the phrase "size of the electronic communication" will not raise a 35 USC 112, first paragraph rejection since it is clearly an equivalent to what was intended by the Applicants phrase "the length of the electronic communication", the Applicants will amend the claims to use the phrase "size of the electronic communication" to resolve the current dispute.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at 408-278-4058 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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